

ORDINANCE AMENDMENT REVIEW SHEET

Amendment: C20-2016-002

Description: Consider an ordinance amending City Code Chapters 25-2 Zoning and 25-8 Environment and 30-5 Environment to clarify regulations related to development along City of Austin lakes.

Proposed Language: See attached draft ordinance.

Summary of proposed code changes:

- Correct three typos,
- Improve clarity for existing rules,
- Resolve unintended issues and conflicts within existing code.

Background: Initiated by Planning Commission on January 26, 2016.

In response to recommendations from the Lake Austin Task Force, new rules for lakefront development were adopted, effective July 7, 2014. Also, the Watershed Protection Ordinance went into effect on October 23, 2013, which changed rules related to floodplain modifications. Both ordinances affected lakefront development, but there were some issues that were not adequately addressed by these ordinances, and there were some unintended consequences as a result of these ordinances that resulted in apparent conflicts. This ordinance attempts to resolve these issues.

The proposed ordinance was initiated by the Planning Commission January 26, 2016. A stakeholder meeting was conducted on April 26, 2016 to gather input. The resulting ordinance does not propose to add any substantive regulations to the existing code, but rather proposes to clarify existing code and resolve unintended consequences within the existing code, in order to further streamline review of proposed lakefront development.

Staff Recommendation: Recommended

Board and Commission Actions

May 4, 2016: Recommended for approval by Environmental Commission on an 8-0 vote (2 members absent).

May 17, 2016: Recommended for approval by the Codes and Ordinances Subcommittee on a 3-0 vote.

May 24, 2016: To be reviewed by Planning Commission.

Council Action

June 9, 2016: A public hearing has been set.

Ordinance Number: NA

City Staff: Liz Johnston **Phone:** 974-2619 **Email:** liz.johnston@austintexas.gov



LAKE DEVELOPMENT CODE AMENDMENT

Liz Johnston
Watershed Protection Department

Summary

- ▶ In response to recommendations of the Lake Austin Task Force, new rules for Lake development were effective on 7/7/2014
- ▶ Previous code revisions also affected variance/waiver approvals and changed floodplain modification rules
- ▶ This ordinance proposes a clean-up to:
 - **correct 3 typos,**
 - **improve clarity for 7 existing rules**
 - **fix 4 unintended issues/conflicts in the code**
- ▶ Title 30 will also be amended to include the latest code changes
- ▶ Other?

Typo (1 of 3)

Problem: Slope gradient percent in 25-2-551(C)(3)(b) is wrong

Solution:

25-2-551(C)(3) For a lot included in a subdivision plat recorded before April 22, 1982, or a tract that is not required to be platted, impervious cover may not exceed:

- (a) 35%, on a slope with a gradient of 15% or less;
- (b) 10%, on a slope with a gradient of more than 15% and not more than ~~35%~~;
- (c) 5%, on a slope with a gradient of more than 25% and not more than 35%; or
- (d) 40 percent, if impervious cover is transferred under Subsection (D)

correct to 25

Typo (2 of 3)

Problem: 25-2-55I has two section E's

Solution:

(E) This subsection specifies additional development standards based on slope gradient in a Lake Austin (LA) district.

(1) On a slope with a gradient of more than 15 percent:

(a) vegetation must be restored with native vegetation, as prescribed by the Environmental Criteria Manual, if it is disturbed or removed as a result of construction; and

(b) construction uphill or downhill from the slope must comply with the Environmental Criteria Manual.

(2) On a slope with a gradient of more than 35 percent, development is prohibited except for the construction of a fence, driveway, road or utility that cannot be reasonably placed elsewhere, or a non-mechanized pedestrian facility, such as a foot path, sidewalk, or stairs.

correct
to "F"

(E) In an LA district, a person may transfer impervious cover in accordance with this subsection.

(1) Impervious cover may be transferred only:

(a) between tracts within an LA district; and

(b) from land with a gradient of 35 percent or less, to land with a gradient of 15 percent or less.

(2) Land from which impervious cover is transferred may not be developed. The land must either remain undisturbed or be restored to a natural state.

(3) A transfer of impervious cover must be described in a restrictive covenant that runs with the land, is approved by the city attorney, and is recorded in the county deed records.

Typo (3 of 3)

Problem: 25-2-1176(8)(a) refers to the wrong paragraph

Solution:

25-2-1176(8)(a) except for storage closets permitted under Paragraph **(6)**, no more than one wall per floor may consist of solid structural supports or building materials;

correct
to "7"



Clarification (1 of 7)

Problem: Percent openness calculation is unclear and may not allow for sufficient insect screening. [LDC 25-2-1176(A)(8)]

Solution: Revise language to ensure that insect screening is allowed and clarify how to calculate the percent openness.

- (a) except for storage closets permitted under Paragraph (7), ~~no more than one wall per floor may consist of solid structural supports or building materials~~ all solid structural supports and other materials used for enclosure, including but not limited to lattice, wire panels, seat walls, and screening, must be at least 66 percent open, except that mesh for insect screening that is at least 66% open will not count toward the total enclosure percentage;
- ~~(b) except for solid structural components allowed under Paragraph 8(a), solid and mesh materials used for enclosure, including lattice, wire panels, and screening, must be at least 66 percent open; and~~
- (b) no framing materials that are capable of being converted to support walls or windows may be used; and
- (c) percent openness is calculated per side, with the assumed height of 8' per floor when no roof is proposed.

Clarification (2 of 7)

Problem: Fences for yards are not expressly allowed in the LA setback

Solution: Clarify that fences are allowed in the LA setback
25-2-55 I(B)(3)(a). Does not change floodplain rules.



Clarification (3 of 7)

Problem: Existing Zoning code prohibits construction for all boat ramps [25-2-1176(D)]

Solution: Clarify that the prohibition does not apply to construction for the Public (i.e. municipal). Allow construction of public ramp in CWQZ and LA setback.



Walsh Boat Landing

Clarification (4 of 7)

Problem: “Length” and “width” can be unclear as applied to docks

Solution: Add a definition for “Shoreline Frontage” to replace “width” and clarify that the length of a dock is measured perpendicular to shoreline [25-2-1172 – Definitions]



Clarification (5 of 7)

Problem: Docks may not extend into more than 20% of a channel.
[25-2-1176(A)(2)]

**Example:
Uniform
(easy)**



**Example:
Irregular
(not easy)**

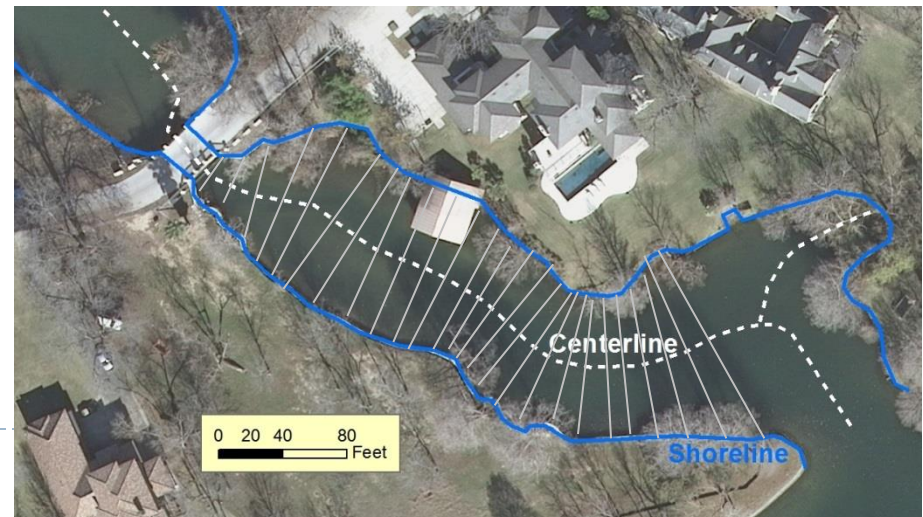
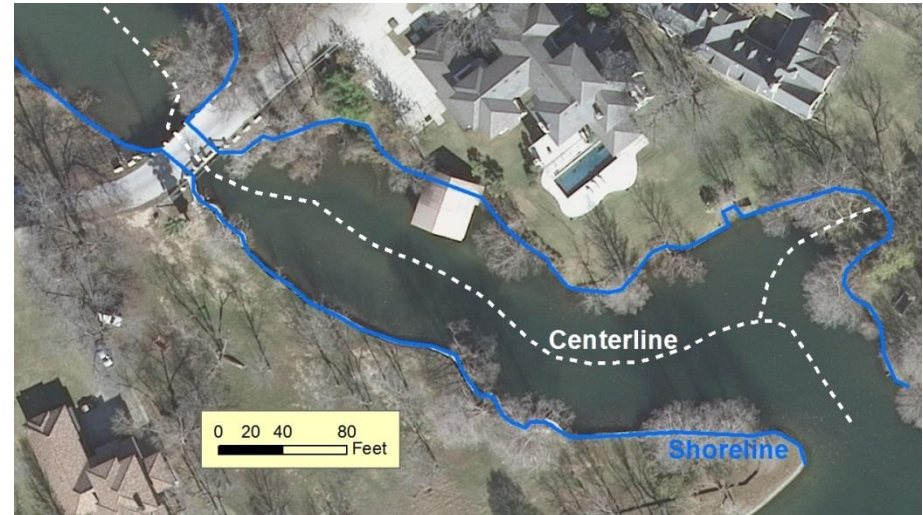


Clarification (5 of 7 continued)

Solution: Clarify that channel width is measured from a line drawn perpendicular to the centerline of the channel

Applicant

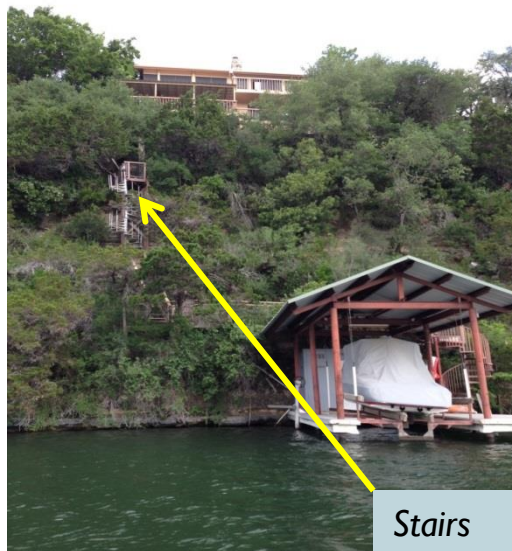
- 1.) identifies the centerline
(i.e. mid-point between shorelines)
- 2.) draws a channel width line
that is perpendicular to centerline
- 3.) identifies dock length not to
exceed 20% of channel width



Clarification (6 of 7)

Problem: Code needs additional clarification for “necessary access” within a Critical Water Quality Zone consistent with current policy [25-8-261(C)]

Solution: Necessary access is the minimum area of land disturbance required to construct a single means of access from the shoreline to a dock. Only one means of access allowed. Not applicable to public trails already allowed.



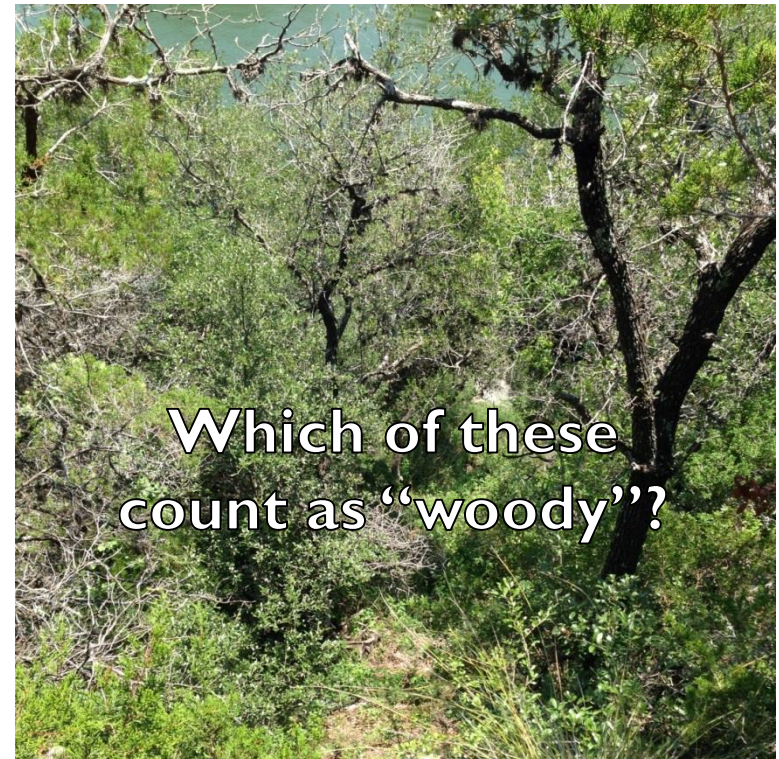
Clarification (7 of 7)

Problem: How to define “woody vegetation” in 25-8-261(C) “No more than 30% of the woody vegetation can be removed” in the shoreline setback

Solution:

Delete “woody vegetation” and replace with:

No more than 30% of the total number of ECM Appendix F trees with diameters of 8” or more may be removed in the shoreline setback



Unintended Issue (1 of 4)

Problem: Application of the existing rule that requires preservation/restoration of a portion of the shoreline area is unclear and difficult. [25-8-261(C)(2)]

- (2) At least 50% of the area within 25 feet of the shoreline must be:
- (a) preserved in a natural condition; or
 - (b) restored to a natural condition as prescribed by the Environmental Criteria Manual, if the vegetation is disturbed or removed for construction or other development activity, within the area of disturbance.

“Natural condition” is unclear
Would apply behind a boat dock
May not improve ecological functioning

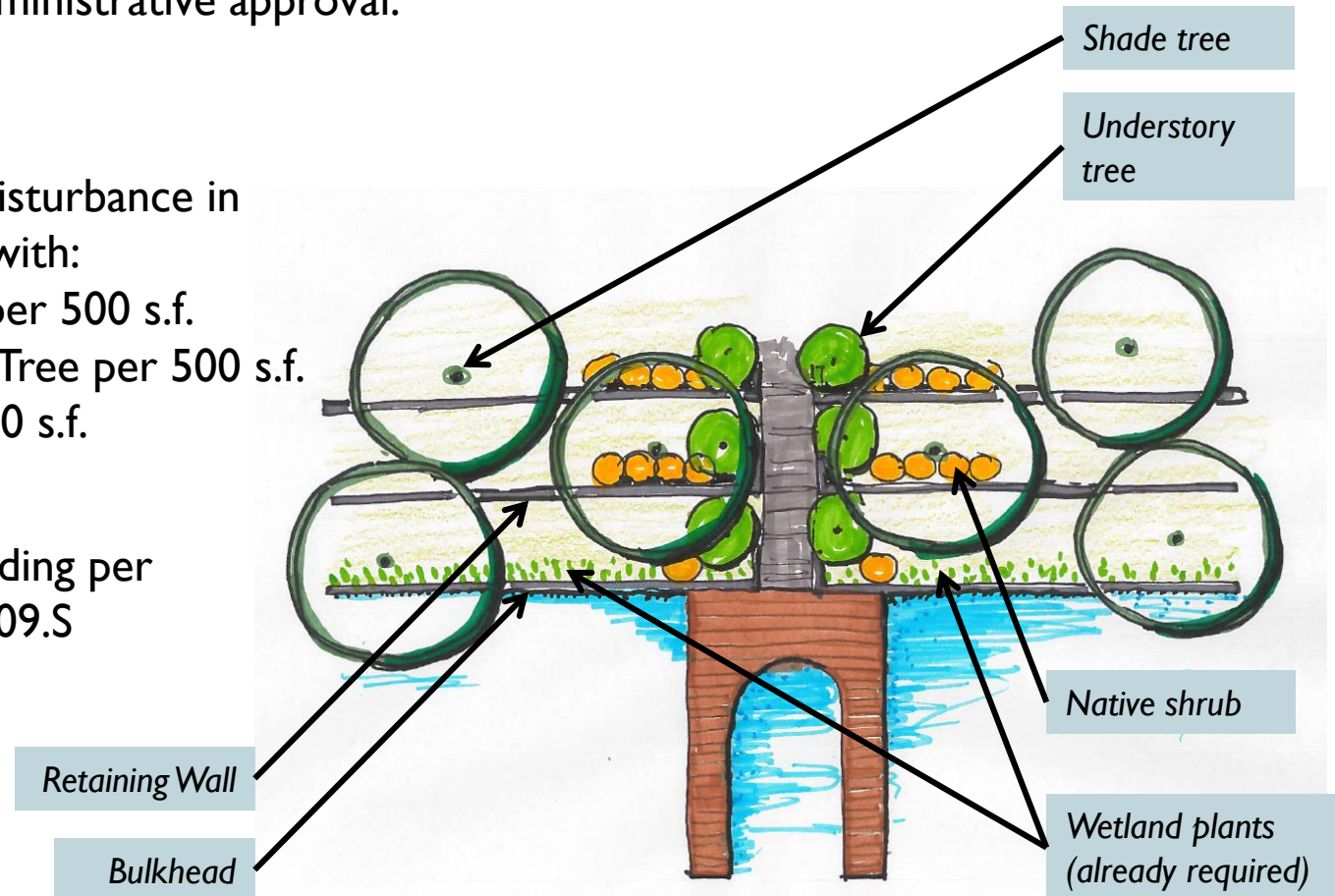
Unintended Issue (1 of 4 continued)

Solution: Criteria that allow flexibility for owner while still providing ecological benefit. Promote consistency with development in the floodplain/CWQZ, allow administrative approval.

Equivalent area of land disturbance in CWQZ to be restored with:

- ▶ 1 Native Shade Tree per 500 s.f.
- ▶ 1 Native Understory Tree per 500 s.f.
- ▶ 1 Native Shrub per 150 s.f.

Remainder is native seeding per standard specification 609.S

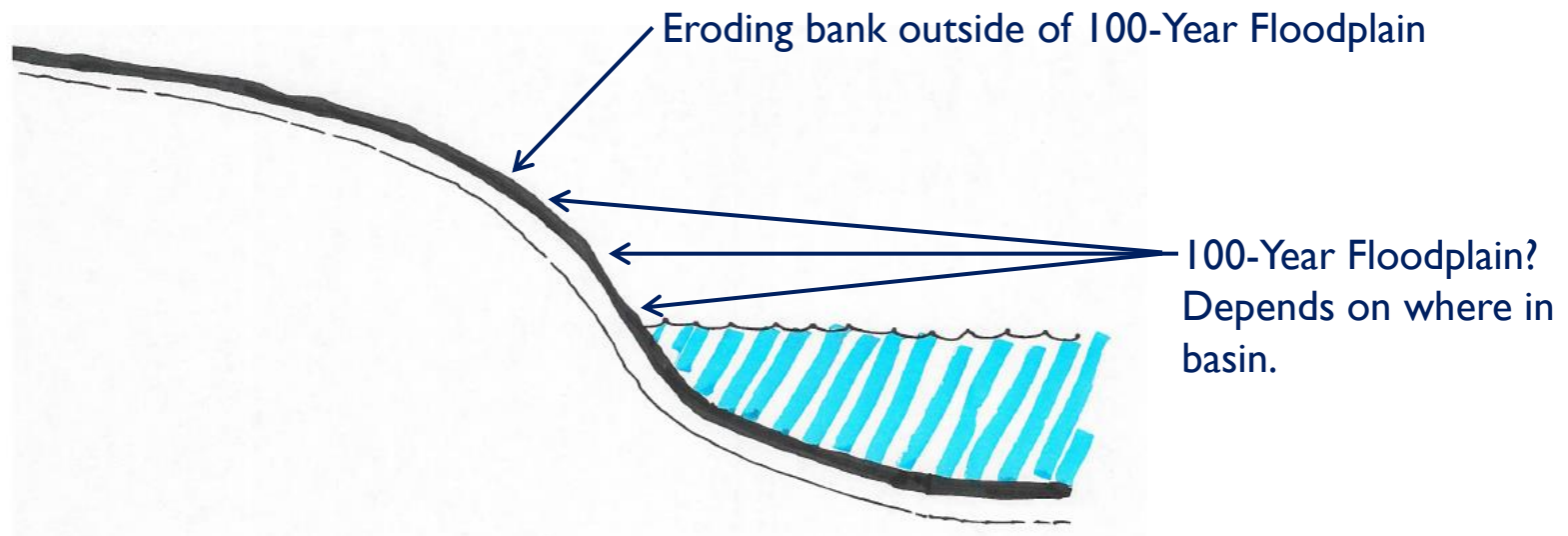


Unintended Issue (2 of 4)

Problem: Existing code allows stabilization of eroding banks can be approved administratively, but only within floodplain

Solution: Allow stabilization of eroding banks in Critical Water Quality Zone using same restoration criteria.

← 75' Critical Water Quality Zone



Unintended Issue (3 of 4)

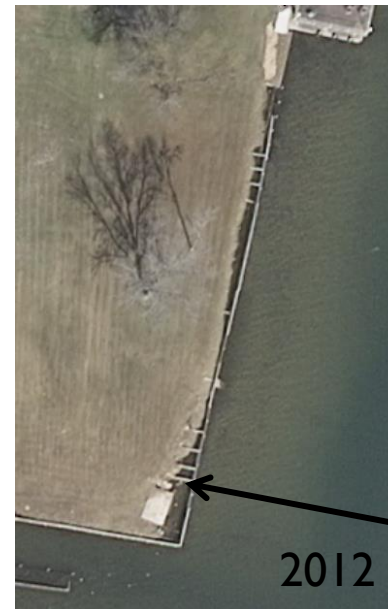
Problem: Fill in the lake is allowed to restore eroding shorelines in 25-8-652, but fill is not allowed in CWQZ under 25-8-261

Solution: Add language to clarify that fill may be allowed in the CWQZ if it is consistent with the existing floodplain modification rules

Shoreline shows minimal erosion



Shoreline has eroded behind existing bulkhead



Unintended Issue (4 of 4)

Problem: Previous code changes inadvertently removed variance process for all fill and dredge requests

Solution: Move code language for Shoreline Relocation and Lake Fill
from: Chapter 25-8 Subchapter B (*Tree and Natural Area Protection; Endangered Species*)
to: 25-8 Subchapter A (*Water Quality*)

This will enable a variance process that is the same as other water quality variances

*Cut-in slip – no
variance process to
place fill in lake.*



Title 30

All applicable past and proposed changes to Title 25 will be added to Title 30 to promote consistency

QUESTIONS or COMMENTS?

- ▶ Send comments or concerns to:
liz.johnston@austintexas.gov
- ▶ Or call: 512.974.2619

DRAFT CODE AMENDMENTS:
CLARIFICATIONS & REVISIONS TO
2014 LAKE AUSTIN ORDINANCE

May 12, 2016

1. **LA Zoning District Regulations.** Amend City Code Section 25-2-551 (*Lake Austin (LA) District Regulations*) to redesignate Subsection (E) as Subsection (F) and to amend Subsections (B) and (C) to read as follows:

(B) This subsection specifies shoreline setbacks in a Lake Austin (LA) district.

(1) The shoreline setback is:

(a) 75 feet; or

(b) 25 feet, if:

(i) the lot is located in a subdivision plat recorded before April 22, 1982, or is a legal tract exempt from the requirement to plat; and

(ii) the distance between the shoreline and the front lot line, or the property line of a legal tract, is 200 feet or less.

(2) A shoreline setback area is excluded from impervious cover calculations.

(3) No structures are allowed in a shoreline setback area, except that:

(a) a bulkhead, retaining wall, fence, dock, public boat ramp, non-mechanized pedestrian access facility, or marina may be constructed and maintained in accordance with applicable regulations of this title; and

(b) an on-site sewage facility may be constructed and maintained in accordance with the applicable regulations of Chapter 15-5 (Private Sewage Facilities).

- (C) This subsection specifies lot width and impervious cover restrictions in a Lake Austin (LA) district.
- (1) If a lot fronts on a cul-de-sac and is included in a subdivision plat recorded after April 22, 1982 or is exempt from the requirement to plat it must have:
 - (a) a chord width of not less than 33 feet at the front lot line;
 - (b) a width of not less than 60 feet at the front yard setback line; and
 - (c) a width of not less than 100 feet at all points 100 feet or more behind the front lot line.
 - (2) For a lot included in a subdivision plat recorded after April 22, 1982, impervious cover may not exceed:
 - (a) 20 percent, on a slope with a gradient of 25 percent or less;
 - (b) 10 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent; or
 - (c) if impervious cover is transferred under Subsection (D), 30 percent.
 - (3) For a lot included in a subdivision plat recorded before April 22, 1982, or a tract that is not required to be platted, impervious cover may not exceed:
 - (a) 35 percent, on a slope with a gradient of 15 percent or less;
 - (b) 10 percent, on a slope with a gradient of more than 15 percent and not more than ~~[35]~~ 25 percent;
 - (c) 5 percent, on a slope with a gradient of more than 25 percent and not more than 35 percent; or
 - (d) 40 percent, if impervious cover is transferred under Subsection (D).

2. **Definitions.** Amend Section 25-2-1172 (*Definitions*) to add a new definition of “Shoreline Frontage” to read as follows:

(10) SHORELINE FRONTAGE means the total linear distance of the shoreline.

3. **Lighting and Electrical Requirements.** Amend Subsection (B) of City Code Section 25-2-1175 (*Lighting and Electrical Requirements*) to read as follows:

(B) This subsection applies to a dock that extends more than eight feet from the shoreline. In this subsection, the distance that a dock extends from a shoreline is measured perpendicular to the shoreline~~[-, and the shoreline length of a dock is the length of a dock measured parallel to the shoreline].~~

- (1) A dock must be continuously lighted with amber lights between sunset and sunrise each day.
- (2) A dock must have at least one light station. Except as otherwise provided in this subsection, the light station must be located on the end of the dock and on the side that is farthest from and parallel to the shoreline. The light must be visible to a properly approaching watercraft.
- (3) A dock that extends 30 feet or more from the shoreline, or that has a shoreline ~~[length]~~ frontage of 25 feet or more, must have at least one light station on each side of the dock that does not face the shoreline.
- (4) The requirements of this paragraph apply if the director determines that a dock described in Subsection (B)(3) may be a navigational hazard between sunset and sunrise.
 - (a) A dock that extends less than 50 feet from the shoreline must have a light station half way between the shoreline and the end of the dock that is farthest from the shoreline.

- (b) A dock that extends 50 feet or more from the shoreline must have light stations from the shoreline to the end of the dock at intervals of not more than 25 feet, except that a light station may not be located within 8 feet of the shoreline.
- (c) A dock that has a shoreline [length] frontage of at least 25 feet but less than 50 feet must have a light station located at each end of the dock on the side farthest from the shoreline.
- (d) A dock that has a shoreline [length] frontage of 50 feet or more must have light stations located at intervals of not more than 25 feet along its [length] frontage.
- (e) Light stations are required at each end of the dock on the side farthest from the shoreline.

4. **Site Development Regulations for Lakefront Uses.** Amend Subsections (A) and (D) of City Code Section 25-2-1176 (*Site Development Regulations for Docks, Marinas, and Other Lakefront Uses*) to read as follows:

- (A) A dock or similar structure must comply with the requirements of this subsection.
 - (1) A dock may extend up to 30 feet from the shoreline, except that the director may require a dock to extend a lesser or greater distance from the shoreline if deemed necessary to ensure navigation safety.
 - (2) No portion of a dock shall extend more than 20% of a channel width as measured by a line that is perpendicular to the centerline of the channel and that extends from the shoreline where the dock is located to the opposite shoreline. ~~[The length of a dock from the shoreline may not exceed 20% of the lake channel, as measured from the shoreline where the dock is located and continuing to the opposite shoreline.]~~
 - (3) A dock may not be constructed closer than 10 feet to the side property line, regardless of the side-yard setback generally applicable within the base zoning district.

- (4) The width of a dock measured parallel to the shoreline of the lot or tract where the dock is proposed, and including all access and appurtenances, may not exceed:
 - (a) 20 percent of the shoreline [~~width~~] frontage, if the shoreline width exceeds 70 feet;
 - (b) 14 feet, if the shoreline [~~width~~] frontage is no greater than 70 feet.
- (5) The footprint of a dock, including the portion of a cut-in slip, attached access structures, or roof overhang, may not exceed:
 - (a) 1,200 square feet for a dock that is accessory to a principal residential use;
 - (b) for a cluster dock, 600 square feet multiplied by:
 - (i) the number of dwelling units in a multifamily development; or
 - (ii) the number of principal residential structures in a subdivision, if:
the dock will be located in a common area that fronts Lake Austin or Lady Bird Lake; and
lots within the subdivision have perpetual use rights to the common area.
- (6) A dock may not exceed 30 feet in height as measured from the highest point of the structure above the normal pool elevation of the lake.
- (7) No portion of a dock may be enclosed, except for an enclosed storage closet that is:
 - (a) limited to no more than 48 square feet for each principal residential use associated with the dock; and
 - (b) oriented to minimize cross sectional area perpendicular to flow.
- (8) The dock must be designed and constructed to meet the following requirements:

- (a) except for storage closets permitted under Paragraph ~~[(6)]~~[(7), ~~[no more than one wall per floor may consist of solid structural supports or building materials]~~ all solid structural supports and other materials used for enclosure, including lattice, wire panels, seat walls, and screening, must be at least 66 percent open, except that mesh for insect screening that is at least 66% open will not count toward the total enclosure percentage;
 - (b) ~~[except for solid structural components allowed under Paragraph 8(a), solid and mesh materials used for enclosure, including lattice, wire panels, and screening, must be at least 66 percent open; and~~
 - (e)] ~~no framing materials that are capable of being converted to support walls or windows may be used[-]; and~~
 - (c) percent openness is calculated per side, with the assumed height of eight feet per floor when no roof is proposed.
- (9) The number of motorboats anchored, moored, or stored on a dock may not exceed:
- (a) two, for a principal residential use utilizing an individual dock that is not part of a cluster dock; or
 - (b) the number of single-family or multifamily residential units that:
 - (i) have a perpetual right to use of a cluster dock located in a common area of the residential subdivision or multi-family development; and
 - (ii) do not utilize a dock other than a cluster dock.
- (10) For purposes of determining the total number of motorboats that may be anchored, moored, or stored on a dock or over water, one personal watercraft is equivalent to one-half of a motorboat.
- (D) Construction of a boat ramp is prohibited, unless the boat ramp is dedicated for public use.

5. **Critical Water Quality Zones.** Amend Subsections (C) and (G) of Section 25-8-261 (*Critical Water Quality Zone Development*) to read as follows:

- (C) The requirements of this subsection apply along Lake Travis, Lake Austin, or Lady Bird Lake.
- (1) A dock, public boat ramp, bulkhead or marina, and necessary access and appurtenances, are permitted in a critical water quality zone subject to compliance with Chapter 25-2, Subchapter C, Article 12 (*Docks, Bulkheads, and Shoreline Access*). For a single-family residential use, necessary access may not exceed the minimum area of land disturbance required to construct a single means of access from the shoreline to a dock.
 - (2) Disturbed areas must be restored in accordance with the Environmental Criteria Manual and the following requirements:
 - (a) Within a lakefront critical water quality zone, or an equivalent area within 25 feet of a shoreline, restoration must include:
 - (i) at least one shade tree and one understory tree, per 500 square feet of disturbed area; and
 - (ii) one native shrub per 150 feet of disturbed area; and
 - (b) Remaining disturbed areas must be restored per standard specifications for native restoration. [At least 50% of the area within 25 feet of the shoreline must be:
 - (a) ~~preserved in a natural condition; or~~
 - (b) ~~restored to a natural condition as prescribed by the Environmental Criteria Manual, if the vegetation is disturbed or removed for construction or other development activity, within the area of disturbance.]~~
 - (3) Within the shoreline setback area defined by Section 25-2-551 (*Lake Austin (LA) District Regulations*) and within the overlay established by Section 25-2-180 (*Lake Austin (LA) Overlay District*), no [Not] more than 30 percent of the total number of shade trees of 8 inches or greater, as designated in the Environmental Criteria Manual, [woody vegetation within the shoreline setback area as defined by Section 25-2-551 (*Lake Austin (LA) District Regulations*) and within the area defined by 25-2-180 (*Lake Austin (LA) Overlay District*)] may be removed.
 - (4) Before a building permit may be issued or a site plan released, approval by the Watershed Protection Department is required for

chemicals used to treat building materials that will be submerged in water.

- (5) Bank erosion above the 100-year-floodplain may be stabilized within a lakefront critical water quality zone if the restoration meets the requirements of Subsection (B)(2) of this section.
- (G) Floodplain modifications are prohibited in the critical water quality zone unless:
 - (1) the floodplain modifications proposed are necessary to protect the public health and safety;
 - (2) the floodplain modifications proposed would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual[-]; or
 - (3) the floodplain modifications proposed are necessary for development allowed in the critical water quality zone under Section 25-8-261 (*Critical Water Quality Zone Development*), [Ø] Section 25-8-262 (*Critical Water Quality Zone Street Crossings*), or Section 25-8-367 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*).

6. Restrictions on Floodplain Modifications. Subsection (C) of City Code Section 25-8-364 (*Floodplain Modification*) is amended to read:

- (C) Floodplain modification is allowed only if the modification proposed:
 - (1) is necessary to protect the public health and safety;
 - (2) would provide a significant, demonstrable environmental benefit, as determined by a functional assessment of floodplain health as prescribed by the Environmental Criteria Manual;
 - (3) is located within a floodplain area classified as in fair or poor condition, as determined by a functional assessment of floodplain health, prescribed by the Environmental Criteria Manual; or
 - (4) is necessary for development allowed under Section 25-8-261 (*Critical Water Quality Development*), [Ø] Section 25-8-262

(Critical Water Quality Zone Street Crossings), or Section 25-8-367 (Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long).

7. **Consolidation of Shoreline & Lakefill Regulations.** City Code Chapter 25-8, Subchapter A, Article 7 (*Requirements in All Watersheds*) is amended to renumber Sections 25-8-651 (*Relocation of Shoreline Between Tom Miller Dam and Longhorn Dam*) and 25-8-652 (*Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long*) as Sections 25-8-366 and 367, respectively, and placed into a new Division 7 to be captioned as follows:

Division 7. Shoreline Relocation and Lakefill.

8. **Corresponding Changes to Title 30.** The amendments in Parts 5-7, above, would also be made to the corresponding provisions of Title 30 (*Austin/Travis County Subdivision Regulations*), but would not become effective until the Travis County Commissioners Court adopts substantially similar amendments.

Summary of proposed Land Development Code changes related to Lake development

The following revisions to the [Land Development Code](#) (LDC) are intended to provide clarity to existing rules, to remove apparent conflicts between different sections of the LDC, and to provide the ability for citizens to request variances for [certain activities](#) not otherwise allowed by the LDC (placing fill in a lake or dredging greater than 25 cubic yards). The numbers below reference current sections of the LDC. The two chapters of the LDC that will be affected by the proposed ordinance are LDC 25-2 Zoning and LDC 25-8 Environment.

25-2-551 Lake Austin District Zoning

- Clarify that fences are allowed in the LA setback. *Note: This does not negate floodplain and building permit rules related to fences in LDC 25-7-3 and 25-12-3.*
- Fix typo related to distinctions between slope categories for the purposes of determining the amount of allowable impervious cover.
- Fix typo within the subsection heading.
- Allow public boat (municipal) ramps in LA setback.

25-2-1172 Definitions

- Provide a definition for “Shoreline Frontage” in order to clarify how to measure the percentage of allowable development along the lake shoreline.

25-2-1175 Lighting and Electrical Requirements

- Fix ambiguities in language related to the distance along the shoreline versus length of extension into the lake.

25-2-1176 Site Development Regulations for Docks, Marinas, and Other Lakefront Uses

- Clarify how to measure “20% of a channel width” in order to determine how far a dock can extend into a channel.
- Clarify calculation of percent openness and allow for insect screening.
- Allow construction of public (municipal) boat ramps.

25-8-261 Critical Water Quality Zone Development

- Revise revegetation requirements along lake shoreline.
- Clarify the size and species of woody vegetation required to remain within the LA setback.
- Clarify “necessary access” within a critical water quality zone.
- Allow the restoration of eroding banks located outside the 100-year-floodplain along the shoreline of a lake within a Critical Water Quality Zone.
- Remove apparent conflicts between development allowed along a lake shoreline and development allowed in a Critical Water Quality Zone.

25-8-364 Floodplain Modification

- Remove apparent conflicts between development allowed along a lake shoreline and development allowed through floodplain modification rules.

25-8 Division 4 (25-8-651 & -652) Shoreline Relocation; Lake Fill

- Current code allows dredging **less than** 25 cubic yards. Revise to allow dredging **up to** 25 cubic yards.
- Provide a process for applicants to request variances to place fill in a lake or dredge greater than 25 cubic yards by moving section from 25-8 Subchapter B to 25-8 Subchapter A.

Title 30 Austin/Travis County Subdivision Regulations, Chapter 30-5 Environment

- Update Title 30-5 to include the same language as LDC Chapter 25-8.



MEMORANDUM

TO: Members of the Environmental Commission

FROM: Liz Johnston, Environmental Program Coordinator
Watershed Protection Department

DATE: April 27, 2016

SUBJECT: Proposed Code Amendment related to Development along Austin's Lakes

On the May 4, 2016 Environmental Commission agenda is a proposed code amendment intended to fix typos, clarify code language, and remove apparent conflicts within the Land Development Code (LDC) related to construction along Austin's lakes. The proposed amendment will affect Chapters 25-2 "Zoning" and 25-8 "Environment", as well as revise Title 30 to coincide with the proposed changes to Title 25.

Background

A comprehensive overhaul of the development code related to boat docks and other lake-related development went into effect on July 7, 2014. This code change was requested by City Council (Resolution No 20130829-078) following the Lake Austin Task Force's consensus recommendation that city staff update and modernize the code relating to boat docks. The resulting code amendment was the first substantive rewrite of existing code related to boat docks and shoreline development. Review times for basic boat docks that do not trigger environmental variances have decreased by approximately three weeks since the passage of the 2014 ordinance. However, there have been new issues within the LDC that need additional revision in order to streamline the review process further and remove barriers from the ability of a homeowner to seek environmental variances for certain activities.

In addition to the July 7, 2014 amendment, the Watershed Protection Ordinance was also passed in October of 2013, which resulted in changes to floodplain modification rules and provided a tool for staff to assess floodplain modifications using a Functional Assessment. These changes to floodplain modification regulations currently apply throughout the City of Austin's regulatory jurisdiction; however, they have particular impact to homeowners along the Lakes due to the number of residences that have shoreline frontage. However, due to the management of the reservoir, the location of the floodplain is not always relevant to the types of erosion that homeowners face along the lakes, particularly Lake Austin. Therefore staff proposes to modify the LDC in order to facilitate a holistic review of the banks along the lakes, regardless of whether or not the bank is located in the 100-year-floodplain or not.

Summary of Proposed Code Amendments

The following revisions to the Land Development Code are intended to provide clarity to existing rules, to remove apparent conflicts between different sections of the LDC, and to provide the ability for citizens

to request variances for certain activities not otherwise allowed by the LDC (e.g. placing fill in a lake, or dredging greater than 25 cubic yards). The numbers below reference current sections of the LDC. The two chapters of the LDC that will be affected by the proposed ordinance are LDC 25-2 Zoning and LDC 25-8 Environment.

25-2-551 Lake Austin District Zoning

- Clarify that fences are allowed in the LA setback. *Note: This does not negate floodplain and building permit rules related to fences in LDC 25-7-3 and 25-12-3.*
- Fix typo related to distinctions between slope categories for the purposes of determining the amount of allowable impervious cover.
- Fix typo within the subsection heading.

25-2-1172 Definitions

- Provide a definition for “Shoreline Frontage” in order to clarify how to measure the percentage of allowable development along the lake shoreline.

25-2-1175 Lighting and Electrical Requirements

- Fix ambiguities in language related to the distance along the shoreline versus length of extension into the lake.

25-2-1176 Site Development Regulations for Docks, Marinas, and Other Lakefront Uses

- Clarify how to measure “20% of a channel width” in order to determine how far a dock can extend into a channel.
- Clarify calculation of percent openness and allow for insect screening.
- Allow construction of public (municipal) boat ramps.

25-8-261 Critical Water Quality Zone Development

- Clarify how to determine “restored to a natural condition”.
- Clarify the size and species of woody vegetation required to remain within the LA setback.
- Clarify “necessary access” within a critical water quality zone.
- Allow the restoration of eroding banks located outside the 100-year-floodplain along the shoreline of a lake within a Critical Water Quality Zone using the existing Functional Assessment methods. [ECM Appendix X]
- Remove apparent conflicts between development allowed along lake shorelines and development allowed in a Critical Water Quality Zone.

25-8-364 Floodplain Modification

- Remove apparent conflicts between development allowed along a lake shoreline and development allowed through floodplain modification rules.

25-8-652 Restrictions on Development Impacting Lake Austin, Lady Bird Lake, and Lake Walter E. Long

- Current code allows dredging **less than** 25 cubic yards. Revise to allow dredging **up to** 25 cubic yards.
- Provide a process for applicants to request variances to place fill in a lake or dredge greater than 25 cubic yards by moving from 25-8 Subchapter B to 25-8 Subchapter A.

Title 30 Austin/Travis County Subdivision Regulations, Chapter 30-5 Environment

- Update Title 30-5 to include the same language as LDC Chapter 25-8.

Additional Considerations from Stakeholders

At a stakeholder meeting conducted on April 26, 2016, some stakeholders expressed concerns about the lack of regulations related to “touchless boat covers”, which are canvas boat curtains that entirely surround boats within a dock. Homeowners have expressed concerns about the decrease in visibility and enjoyment of the lake resulting from the opaque material and a potential resultant lowered property values. Watershed Protection Staff do not feel that this particular issue has been properly vetted within the Lake Austin homeowner community and do not have a recommendation about this issue at this time.

Some stakeholders have also expressed concerns about the floodplain modification requirements to restore the shoreline with trees due to the potential presence of existing septic fields adjacent to small lots along Rivercrest Dr and other similar areas. Their concern is that they will not be able to meet the requirements to provide sufficient trees to avoid environmental variances when functional assessments are required. Staff believes that functional assessment criteria are purposefully flexible and the likelihood of environmental variances will be low for the vast majority of the lake property owners using functional assessments. However, if a site has existing conditions that make it difficult to meet code requirements, the variance process would allow staff to take such conditions into consideration when drafting staff recommendations for variances.

Request

Staff requests that the Environmental Commission consider and make a recommendation for the proposed code amendment related to development along Austin’s lakes.

**ENVIRONMENTAL COMMISSION MOTION FORM 21060504 007b**

Date: May 4, 2016

Agenda Item:

Subject: Proposed Code amendment related to development along Austin's Lakes

Motion by: Hank Smith

Seconded by: Richard Grayum

RATIONALE:

Whereas, the proposed code amendment is intended to fix typos, clarify code language, and remove apparent conflicts with the LDC related to construction along Austin's lakes; and

Whereas, staff requests the Environmental Commission consider and make a recommendation for the proposed code amendment.

Therefore, the Environmental Commission recommends approval of the request for the proposed code amendment related to development along Austin's Lakes.

VOTE 8-2

Recuse:	None
For:	Thompson, Gooch, Moya, H. Smith, B. Smith, Grayum, Maceo, Perales
Against:	None
Abstain:	None
Absent:	Creel, Neely

Approved By:

A handwritten signature in black ink, appearing to read "Marisa Perales", is written over a horizontal line.

Marisa Perales, Environmental Commission Vice Chair

